

ENVIRONMENTAL REVIEW AND PERMITTING

ISSUE SUMMARY:

The Office of Federal Activity (OFA), located within the Office of Policy, leads agency efforts in environmental review and permit streamlining. The Director of OFA serves as the National Program Manager (NPM) and works closely with headquarters program offices, regional offices, and federal agencies to ensure that National Environmental Policy Act (NEPA) documents provide adequate consideration of potential environmental impacts of federal actions and provide information to help decision-makers and the public. OFA coordinates with EPA's three major permitting offices (OAR, OW and OLEM) to establish and implement streamlining and modernization strategies to ensure consistent and timely issuance of permits.

EPA is statutorily required to review and comment on other federal agencies' Environmental Impact Statement (EIS) documents, prepared under NEPA pursuant to §309 of the Clean Air Act. OFA's NEPA Compliance Division (NCD) works with other agencies to improve their NEPA documents through comment and early coordination efforts. The NEPA process provides opportunities to address environmental impact concerns early in the planning process, resolving disagreements with other agencies' interpretations of their obligations under NEPA, and through EPA involvement and review of major projects. EPA's comment letters on EIS documents are made publicly available on EPA's website.

In accordance with a Memorandum of Understanding (MOU) with the Council on Environmental Quality (CEQ), EPA serves as the repository for EISs prepared by federal agencies and provides notice of EIS availability in the *Federal Register*. EPA uses e-NEPA, a web-based system, as the official EIS filing system for federal agencies and EIS clearinghouse to meet the CEQ MOU commitments. In addition, EPA operates, uses and promotes the NEPAassist geographic information system to help users (EPA, other federal agencies, and the public) with environmental reviews under NEPA.

OFA's NEPA Compliance Division manages the review of Environmental Impact Assessments of non-governmental activities in Antarctica, in accordance with the Antarctic Science, Tourism, and Conservation Act. OFA's Permitting Policy Division (PPD) serves as EPA's central point of contact for all federal agencies on EPA-issued permits. PPD coordinates permit activity efforts to identify, implement and promote best practices; develop meaningful metrics to measure performance consistently across the agency; facilitate early coordination between the regulated community and state/federal permitting programs; and ensure timely permit authorization in the environmental review process for major infrastructure projects. The Director of OFA serves as the agency's designated Chief Environmental Review and Permitting Officer (CERPO) as required by Title 41 of the Fixing America's Surface Transportation Act (FAST-41).

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BACKGROUND:

OFA was reassigned from the Office of Enforcement and Compliance Assurance to the Office of Policy within the Administrator's Office in April 2018 as part of a larger agency reorganization. Concurrent with the reorganization order, PPD was created in place of OFA's prior International Compliance Assurance Division which was reassigned within the Office of Land and Emergency Management.

KEY EXTERNAL STAKEHOLDERS:

☒ Congress ☒ Industry ☒ States ☒ Tribes ☒ Media ☒ Other
 Federal Agency ☒ NGO ☐ Other (name of stakeholder) _____

One of the core goals of OFA is public disclosure and to provide an opportunity for the public to comment on federal actions. The actions studied in EISs, by definition, have potentially significant environmental impacts. Because of this, many EISs generate significant interest from the above-mentioned groups. Congress, States, Tribes, Industry, Media, and NGOs often request meetings or submit inquiries on projects of significance or interest.

MOVING FORWARD:

OFA will continue to execute against statutory mandates and strategic objectives and priorities, many of which have been articulated above.

Effective September 14, 2020, CEQ updated the NEPA regulations to incorporate measures consistent with E.O. 13807 and other updates, including, but not limited to, time and page limits for EISs and EAs. The updated regulations require all agencies to publish proposed updated implementing procedures no later than September 14, 2021. In response to updated CEQ NEPA regulations, the NEPA Compliance Division is in the process of updating EIS filing guidance, EPA NEPA implementation procedures, EPA 309 Policy and Procedure Manual, and facilitating/conducting training for EPA and federal agencies on the updated CEQ NEPA regulations.

The Permit Policy Division's coordination efforts with EPA's permitting programs help communities meet their environmental and economic needs through streamlined permitting and reducing regulatory burdens and ensure compliance and implementation of FAST-41, and Executive Order (EO) 13807 (One Federal Decision). An analysis of the Endangered Species Act (ESA) and its role in permitting is occurring via a survey in an effort to map EPA's ESA consultation processes, collect and analyze ESA consultation baseline data and trends, evaluate unique permit/ program challenges to ESA consultation, prioritize opportunities to improve EPA's approach to ESA consultation and generate recommendations for improvement opportunities for ESA consultation. PPD is also leading a joint effort with Region 5 to

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automate Underground Injection Control (UIC) permit applications with the intent of eventually automating all EPA permit programs.

LEAD OFFICE/REGION:

OTHER KEY OFFICES/REGIONS:

AO/AAOP/OFA/NCD/PPD; all regions